

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

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**OBEL CRUZ-GARCIA,**  
Petitioner,

*v.*

**BOBBY LUMPKIN, Director,**  
Texas Department of  
Criminal Justice,  
Correctional Institutions Division,  
Respondent.

Case No. 4:17-CV-03621

District Judge Lee H. Rosenthal

**CAPITAL CASE**

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**UNOPPOSED MOTION FOR 45-DAY EXTENSION OF TIME TO FILE  
SECOND AMENDED PETITION**

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With this unopposed motion, Obel Cruz-Garcia respectfully requests that this Court grant a 45-day extension of time for Mr. Cruz-Garcia to submit his Second Amended Petition. Respondent is unopposed to the relief requested herein.

On November 9, 2021, this Court entered an order (the “Scheduling Order”) directing Mr. Cruz-Garcia to submit a Second Amended Petition by February 18, 2021. ECF No. 65. The Scheduling Order also provided that the Director was to submit his responsive pleading within 120 days of Mr. Cruz-Garcia’s filing of his Second Amended Petition, and that Mr. Cruz-Garcia was to submit a reply pleading 60 days thereafter. *Id.* at 2.

Mr. Cruz-Garcia seeks this extension for the following reasons:

The first reason Mr. Cruz-Garcia requests this extension is the continuing Covid-19 pandemic. Over the last month, there have been several Covid infections in counsels’ office, of both

attorneys and staff. As a result, the workflow of counsels' office has been distributed and the office has reverted to a work-from-home arrangement. Counsel have also been dealing with Covid infections in their households as well as uncertainty in child care arrangements due to Covid outbreaks at daycare.

The second reason Mr. Cruz-Garcia seeks this extension is that his counsel has a conflicting deadline in another case. Attorneys Naomi Fenwick and Jeremy Schepers represent Cedric Ricks in federal habeas proceedings pending in the Northern District of Texas. An amended petition is due to be filed in the Ricks case no later than March 17, 2021. Mr. Cruz-Garcia requests a 45-day extension—until April 4, 2022—so that there is sufficient time after the filing of the Ricks amended petition for his counsel to prepare and finalize the second amended petition in his case.

The Director's counsel has indicated he is unopposed to the 45-day extension requested by Mr. Cruz-Garcia. Mr. Cruz-Garcia has not previously requested an extension of this deadline.

Mr. Cruz-Garcia makes this motion not for purposes of delay or any other improper purpose, but in the interest of justice. For the foregoing reasons, Mr. Cruz-Garcia respectfully requests that the Court grant his Unopposed Motion for a 45-Day Extension of Time to File Second Amended Petition.

Respectfully submitted,

DATE: January 21, 2022

JASON D. HAWKINS  
Federal Public Defender

/s/ *David C. Currie*  
Jeremy Schepers (TX 24084578)  
Supervisor, Capital Habeas Unit  
David C. Currie (TX 24084240)  
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*Counsel for Petitioner*

### CERTIFICATE OF CONFERENCE

David Currie, counsel for Mr. Cruz-Garcia, has conferred with opposing counsel, Cara Hanna of the Texas State Attorney's General office, and Ms. Hanna is not opposed to the relief sought in this motion.

/s/ *David Currie*  
Attorney for Petitioner

### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Unopposed Motion for a 45-Day Extension of Time to File Second Amended Petition has been served by CM/ECF upon counsel for Respondent on January 21, 2022:

Cara Hanna  
Postconviction Litigation Division  
Office of the Attorney General  
P.O. Box 12548  
Capitol Station  
Austin, TX 78711

/s/ *David C. Currie*  
Assistant Federal Defender